PATENT APPLICATION
Client Ref. 1056
Do. No. 2705-387

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Nirat Bhupesh Shah		
Confirmation No.	3005		
Serial No.:	09/346,884	Examiner:	Anh Vu H. Ly
Filed:	July 2, 1999	Group Art Unit:	2616
For:	CHANGE OF A CODEC DURING AN ACTIVE CALL		
Date:	April 5, 2007		

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

This review is requested for the reason(s) stated on the attached sheet(s). Note: no more than five (5) pages may be provided.

I am the:

- ☐ applicant/inventor
- ☐ assignee of record of the entire interest
  See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed)
- ☒ attorney or agent of record
- ☐ attorney or agent acting under 37 CFR 1.34

Total of 2 forms are submitted.

Customer No. 20575

Respectfully submitted,
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ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF CONFERENCE

The Applicant acknowledges the informalities noted in the Office Action dated January 8, 2007. Upon final decision from the Board, the Applicant will amend the claims to correct the informalities.

The combination of references does not teach the invention as claimed.

The combination of references does not teach *the device and the remotely-located device enabled to negotiate a first type of codec by each sending to the other a list of one or more types of codecs that each supports and each deciding to use a mutually supported codec through the use of a predetermined protocol* as in claims 1 and 17.

In the Office Action dated January 8, 2007, the Examiner has acknowledged that Vargo does not teach the above limitations in claims 1 and 17. See Office Action, Page 4, first

paragraph. The Examiner, however, has alleged that Riddle teaches these limitations, citing Col. 18, lines 48-56.

Riddle does not teach that *the device and the remotely-located device negotiate a first type of codec by each sending to the other a list of codecs that each device supports.* Riddle teaches the receiving device sending a list of decompression codecs to the transmitting device without the transmitting device sending a list of compression codecs to the receiving device. See Col. 9, lines 6-13. The relevant text relied upon by the Examiner (Col. 18, lines 48-56) further strengthens this argument rather than contradicting it. The cited text merely states that a receiver of compressed data may send a list of decompression codecs, but says nothing about the sender system sending a list of compression codecs in exchange. The Examiner seems to interpret that ability of the sender to function as a receiver also means that the sender may send a list of compression codecs. However, Riddle does not mention this at all; Riddle merely states that it is possible for the sender to function as a receiver to send a list of decompression codecs. To read it otherwise will contradict Riddle's text in Col. 18, lines 48-56, which recites "The computer readable media 601 also includes sending code 608 which may be used by the sending system to send information regarding the decompression capabilities of the sender system ...when the sender system also functions as a receiver of compressed data which needs to be decompressed."

Riddle also does not teach that the device and the remotely-located device *each deciding to use a mutually supported codec through the use of a predetermined protocol.* Riddle only teaches the sender deciding the "best" codec with no decision made at all by the receiver. See Col. 9, lines 20-25. The Examiner has drawn an analogy between selecting a best codec at the sender and each (the device and the remotely-located device) deciding to use a mutually

supported codec. Decision at the sender alone is not the same as decisions at both the sender and the receiver.

In the Office Action of January 8, 2007, the Examiner has added a new reference to the combination (Knappe), but the combination of references still does not teach *the renegotiation is triggered upon detection of degradation in voice quality by the remote device and the DSP module dynamically switch to the second codec only if the device determines that the second codec is available therein* as in claims 1 and 17.

The Examiner has acknowledged that Vargo does not teach the above limitation. See Office Action, Page 4, second paragraph. The Examine, however, has alleged that "Knappe discloses that when the audio quality selector 86 detects a request *by the opposite end* for audio quality reconfiguration that affects the codec used by digital signal processor 90...." Knappe does not disclose the audio quality selector 86 detects a request by the opposite end. In contrast, Knappe discloses "Audio quality selector 86 detects requests for audio quality reconfiguration that originate from a POTS phone attached to RJ11 jack 52." See Col. 5, lines 24-26. As shown in FIG. 4 of Knappe , RJ11 jack 52, audio quality selector 86, and call control 92 (the renegotiator function is included therein) are part of the same telephone/data network interface 99. Further as shown in FIGs 2 and 3 of Knappe, POTS phones 28 and 38 are directly attached to the telephone/data network interface 34. As such, POTS phones 28 and 38 cannot be at the opposite end. In other words, audio quality selector 86 detects requests for audio quality reconfiguration from devices located at the same end.

Knappe further discloses that "When audio quality selector 86 detects a request for audio quality reconfiguration ..., it relays the request to call control 92. Call control 92 contains an audio-grade renegotiator function. The renegotiator function examines whether the current

codec provides the requested audio quality. If it does not, the renegotiator can attempt to renegotiate an appropriate codec with its opposite endpoint." See Col. 5, lines 38-45. As explained above, both audio quality selector 86 and the renegotiator function are part of the same telephone/data network interface 99, and thus audio quality selector 86 detects requests for audio quality reconfiguration locally rather than from the opposite end. Therefore, Knappe does not teach renegotiation being triggered by a remote device as required in claims 1 and 17.

Knappe also does not teach that *the DSP module to dynamically switch to the second codec only if the device determines that the second codec is available therein.* In fact, Knappe does not disclose any details on how the renegotiation is performed. Knappe merely discloses that "the renegotiator can attempt to renegotiate an appropriate codec with its opposite endpoint."

The combination of references is invalid.

"When a rejection depends on a combination of prior art references, there must be some teaching, suggestion, or motivation to combine the references." *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998). No such motivation exists in this combination. Vargo teaches an Internet telephony architecture that permits dynamic change of codec from packet to packet to adjust for internet conditions. See Col. 2, lines 49-54. Vargo aims to attain the best speech quality and lowest latency given the current network conditions. See Col. 2, lines 57-59. Vargo uses a speech quality detector and a codec selector module in a voice port (e.g, voice port 61 of FIG. 6) to achieve the objectives. For example, the speech quality detector determines the speech quality of each incoming speech packet received at the voice port. If the speech quality of the packet falls below a baseline B, the codec selector changes the codec for that particular packet locally. See Col. 11, lines 1-20.

In contrast, Riddle focuses on selecting a pair of compatible compression/decompression algorithms on remote processors regardless of the current network conditions. See Col. 1, lines

16-55. Vargo and Riddle each solves a different technical problem. Vargo does not require or benefit from matching compression/decompression capability between the remote processors as disclosed in Riddle. Furthermore, it is also not necessary for Vargo to conduct any codec renegotiation as disclosed in Knappe. This is because "The packet is given self-describing information about what type of codecs is needed at the receiver to decompress the packet." No motivation exists to combine these teachings and therefore the combination of references is invalid.

The Applicant also asserts all arguments made previously, whether or not explicitly discussed herein, to preserve the right to assert these arguments in the Appeal Brief.

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